APPEAL NO. 040375
FILED APRIL 1, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on January 22, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) reached maximum medical improvement (MMI) on February 25, 2003; that the claimant has a 5% impairment rating (IR); and that the claimant is not entitled to reimbursement for travel under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 134.6 (Rule 134.6). The appellant (self-insured) appealed the determination that the report of the designated doctor is against the great weight of other medical evidence and disputes the determination of MMI and IR. The claimant responded, urging affirmance and requests Conclusion of Law No. 4 be reformed to correct a typographical error. The determination that the claimant is not entitled to reimbursement for travel under Rule 134.6 was not appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed as reformed.

The self-insured argues that the hearing officer erred in rejecting the report of the designated doctor and in determining that the claimant's IR was 5% with an MMI date of February 25, 2003. The self-insured asserts that the claimant did not establish that the great weight of the other medical evidence was against the opinion of the Texas Workers' Compensation Commission (Commission)-selected designated doctor.

The parties stipulated that the self-insured accepted liability for the _____, injury to the claimant. The evidence reflects that the claimant injured both knees at work that day. The record reflects that the claimant had surgery on his right knee on February 21, 2002, and had surgery on his left knee on May 16, 2002. The designated doctor examined the claimant on July 17, 2002, certifying that he reached MMI on that date with a 2% IR, based on Table 64 of the Guides to the Evaluation of Permanent Impairment, fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the American Medical Association prior to May 16, 2000) for the claimant's right knee condition. In response to a Commission request for clarification, the designated doctor amended the IR assessing 5% stating that no impairment was initially assessed for the claimant's left knee condition due to a transcription error and revised his rating for the claimant's right knee condition but declined to change his opinion regarding the date the claimant reached MMI. The claimant's treating doctor testified at the hearing and took exception to much of the information included in the designated doctor's report. The report of the designated doctor reflects that the claimant had lumbar and cervical conditions, which had resolved but the claimant's treating doctor testified that the claimant had never complained of any such conditions. Further, the treating doctor testified that the designated doctor's report

failed to note the scars on the claimant's legs, which substantiated the claimant's contention that the designated doctor did not measure his legs for atrophy or visually examine his knees. The hearing officer specifically found that the designated doctor's determination that the claimant reached MMI on July 17, 2002, is against the great weight of other medical evidence, in that that date is only two months after the claimant's left knee surgery, the designated doctor's narrative report did not specifically address clinical findings of the left knee, and the other doctors who examined the claimant did not substantiate any date of clinical MMI before February 25, 2003.

The great weight of the medical evidence is more than a preponderance of the evidence. *See* Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. A hearing officer should not reject the report of a designated doctor absent a substantial reason to do so. Texas Workers' Compensation Commission Appeal No. 93483, decided July 26, 1993. In this case, clarification had already been sought from the designated doctor. The hearing officer relied on the reports of the doctor who performed the carrier requested required medical examination (RME) and the testimony and reports of the claimant's treating doctor and surgeon in making his determinations. We conclude that the hearing officer did not err in determining that the great weight of the other medical evidence is contrary to the report of the designated doctor under the particular facts of this case, and in adopting the carrier RME doctor's report certifying that MMI was reached on February 25, 2003, with a 5% IR. *See* Section 408.125(e). *Compare* Texas Workers' Compensation Commission Appeal No. 941576, decided January 9, 1995; Appeal No. 951135, *supra*.

We reform Conclusion of Law No. 4, changing the date the designated doctor determined that the claimant reached MMI to July 17, 2002, rather than February 25, 2003, to conform to the evidence. We additionally reform Finding of Fact No. 12 and Finding of Fact No. 15 to reflect that the date the designated doctor found MMI was July 17, 2002, not July 12, 2002.

We affirm the decision and order of the hearing officer as reformed.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

CITY SECRETARY
(ADDRESS)
(CITY), TEXAS (ZIP CODE).

_____
Margaret L. Turner
Appeals Judge

CONCUR:

_____
Gary L. Kilgore
Appeals Judge

_____
Robert W. Potts
Appeals Judge